IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTYSIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 22599 of 2003

Between:

K.Venkateswara Rao, s/o K.Ankaiah,

45 years, Kerosene Hawker, r/o Kattubaddipalem,

G.Konduru Mandal, Krishna District.

..... PETITIONER

AND

1. The Director, Directorate of Civil supplies,

Hyderabad.

2. The joint Collector

Machilipatnam, Krishna District.

3. The Mandal Revenue Officer,

G.Konduru Mandal, G.Konduru,

Krishna District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in canceling the kerosene licence of the petitioner vide DCS Proc.No. E2/300.2003 dated 25.9.2003 is arbitrary, bad and illegal and violative of Articles 14 and 20 of the Constitution of India and consequently set aside the same by directing the respondents to continue the petitioner as Kerosene Hawker in the village Kattubadipalem, G.Konduru Mandal, Krishna District.

For the Petitioner: Mr. Kuriti Bhaskara Rao, Advocate
For the Respondents : Government Pleader for Civil supplies

The Court Made the Following :

::ORAL ORDER::

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The petitioner is a Kerosene Hawker operating under a licence issued under the A.P. Petroleum Products (L&RS) Order 1980, in Kattubadipalem village, G.Konduru Mandal of Krishna District. A show cause notice was issued to him on 25.3.2003 listing out 7 irregularities pertaining to his business, which include allegations that he withheld 250 Ltrs of PDS Kerosene without distributing the same to coupon holders with an intention to divert the same into black market; he was collecting Rs.10/- per litre of kerosene instead of Rs.9.50 ps, as fixed by the Government; he failed to submit stock register etc., in the MRO's office; he failed to exhibit the stock/price list board at his sales point and he failed to exhibit the licence at the business premises. The petitioner submitted his explanation and participated in the oral hearing on 24.2.2003 before the 2nd respondent. The 2nd respondent by the order dated 28.4.2003 cancelled the licence of the petitioner *inter alia* recording that the sale of Kerosene at higher price (by the petitioner) was clearly established in the enquiry and card holders had deposed that Kerosene was being sold at higher rates than prescribed by the Government. The 2nd respondent further recorded that during the enquiry by the inspecting staff, card holders had stated that they were not having any problem with the hawker except sale of Kerosene at higher rates. In his explanation dated 22.4.2003 the petitioner clearly asserted that he was selling kerosene only at the prescribed rate i.e., Rs.9.50 ps, per litre, and that he never sold

Kerosene at higher rate.

Demonstrably the enquiry with the card holders conducted by the inspecting staff was behind the back of the petitioner. A copy of such report was also not furnished to the petitioner. Though the petitioner is a licensee and his licence could be withdrawn or cancelled *inter alia* on the ground of proved misconduct, the cancellation of licence on the ground of misconduct would constitute a stigmatic termination of a valuable right of a citizen and no such order could be passed by public authorities in gross violation of the principles of natural justice.

In the case on hand the 2nd respondent passed the order dated 28.4.2003 cancelling the petitioner's licence as a kerosene hawker on the basis of material which was collected behind the back of the petitioner and even a gist of the enquiry was not furnished to him. This procedure adopted by the 2nd respondent is grossly unfair and constitutes a blatant violation of essential principles of natural justice. The petitioner preferred an appeal to the 1st respondent. However, the 1st by the order dated 25.9.2003 rejected the appeal without dealing with the objection of the petitioner that the 2nd respondent's order was in violation of principles of natural justice. The 1st respondent recorded equally irrelevant reasons for rejecting the appeal of the petitioner.

On the analysis above, the order of the 2nd respondent dated 28.4.2003 as confirmed by the order of the 1st respondent dated 25.9.2003 is set aside. The 2nd respondent is directed to conduct a de novo enquiry into the allegations against the petitioner from the stage after the receipt of the petitioner's explanation by him. Any material adverse to the petitioner collected during the enquiry shall be furnished to the petitioner affording him a reasonable opportunity of rebutting the contents of such adverse material. The 2nd respondent shall ensure that the enquiry shall be completed and final orders passed and communicated to the petitioner within a period of two months from the date of receipt of a copy of this order. As the order of cancellation of his licence and the order of the 1st respondent rejecting the appeal are set aside, the petitioner shall be restored his licence subject however to the final out come of the enquiry to be now conducted by the 2nd respondent.

The writ petition is disposed of as above. There shall be no order as to costs.

Date: 26.11.2004 ----------

Pvsn Justice G.Raghuram

1. The Director, Directorate of Civil supplies,

Hyderabad.

2. The joint Collector

Machilipatnam, Krishna District.

3. The Mandal Revenue Officer,

G.Konduru Mandal, G.Konduru,

Krishna District.

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